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Supreme Court of the United States

OCTOBER TERM, 1952.

No. 260.

HAROLD G. ARON, *Petitioner,*

vs.

JOHN W. SNYDER, SECRETARY OF THE TREASURY, UNITED STATES OF AMERICA, GREAT LAKES STEEL CORPORATION, KATHARINE M. DRIER, *ET AL.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

PETITION FOR REHEARING.

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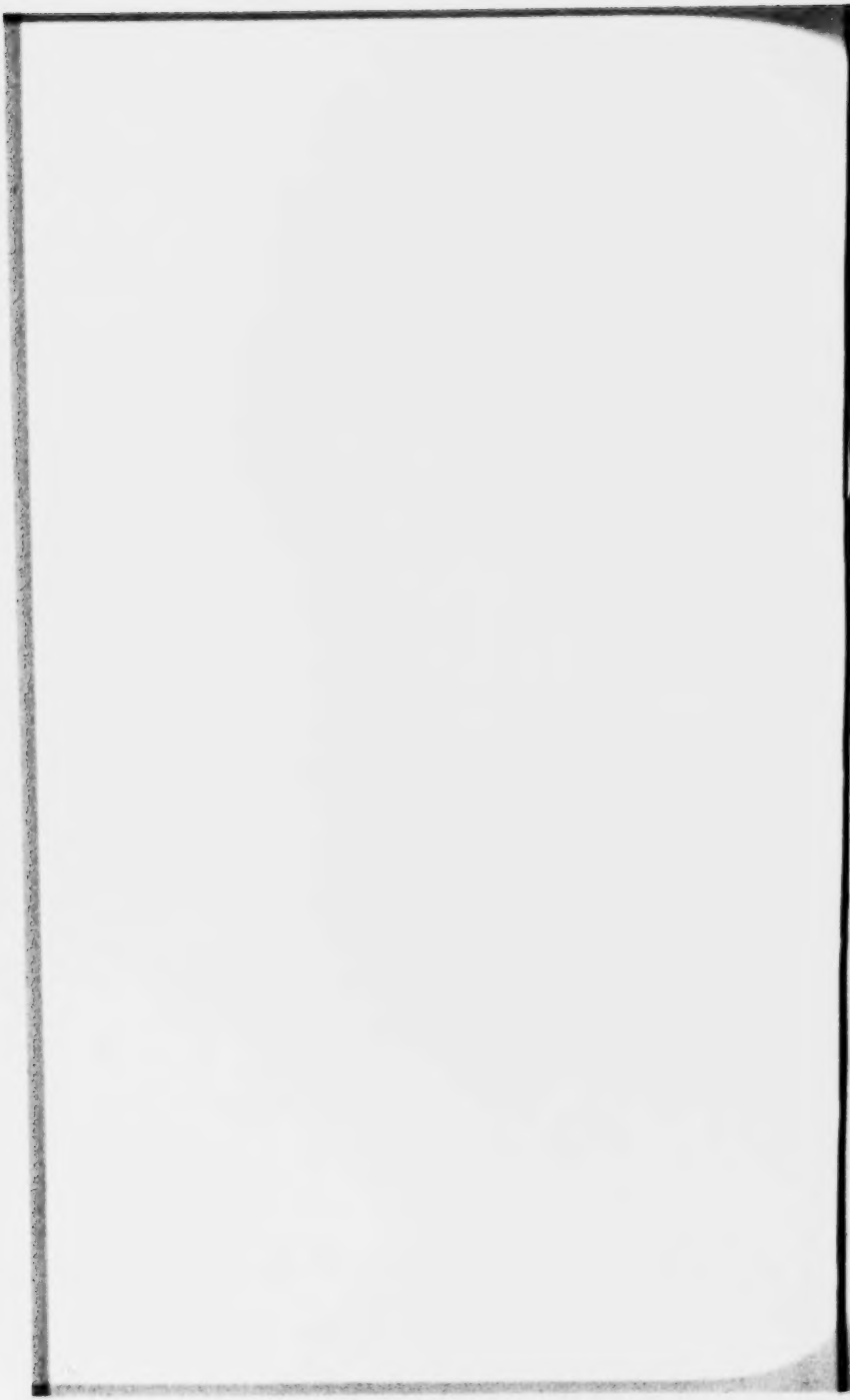

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A petition for writ of certiorari was denied herein on October 20th, 1952. Petitioner prays a re-hearing thereof under Rule 33, as amended, upon the following grounds:

> Because of inadvertence and ignorance of its existence, the Petition was not grounded upon Rule 39, and, while the public interest was alluded to in the Petition and accompanying brief, relief was asked under Rule 38 (Rule 39 not being mentioned) primarily because of the injury, damage and loss of property suffered because of the departure of the Court of Appeals for the District of Columbia from the accepted and usual course of judical proceedings by the Petitioner personally, which he recognizes is not a matter of public interest.

Petitioner now respectfully submits that his Petition fully meets the provision of Rule 39:

> "That the public interest will be promoted by prompt settlement in this Court of the questions involved may constitute a sufficient reason"—for granting a writ of certiorari.

Those questions here are:

> May any Court of Appeals make totally new findings of fact and base its affirmance thereon, *a fortiori*, where there is no evidence to support such findings and they are in direct conflict with the proved and undisputed facts?
>
> See Note 1, *infra*.
>
> May any Federal Court suspend, disregard and violate the Federal Rules of Civil Procedure (48 Stat. 1064), whenever it sees fit to do so?
>
> See Note 2, *infra*.
>
> May a District Court disburse, to his complete exclusion, funds deposited in its Registry, belonging to a litigant, without his consent, trial, judicial inquiry, testimony or evidence of any kind, under oath or otherwise?
>
> See Note 3, *infra*.
>
> May a District Court so dictate and control the record on appeal to a Court of Appeals as to exclude therefrom relevant and material parts of the record in the District Court, designated by the appellant?
>
> Note 4.
>
> May a District Court disburse moneys held in trust in its Registry as it sees fit, without regard to proved claims of right and ownership in complete

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violation of the Seventh and Fourteenth Amendments of the Constitution of the United States?

Note 5.

As to none of these questions is there any issue of fact; the petition was not opposed and none of the facts involved, or as stated in the Petition, have been challenged or disputed.

Note 1.

Such new findings by the Court of Appeals are as follows (Page 32 of the Record):

"that the remaining one third should be used to buy up intervening claims against Aron in such amounts as should be designated by him or *by the court*" so italicised in the opinion—a totally erroneous statement.

(Note bottom Page 33):

"Erroneously stated in Appendix to appellant's brief as Judge Curran"—appellant's statement was wholly correct (R. p. 27a).

(Page 33):

"Neither the judgment not the record, as covered by the Appendix to appellant's brief, revealed any objection to the judgment at the time it was entered" a totally inaccurate statement.

(Page 34):

"Doubtless the Clerk acted agreeably to the court's direction "to pay forthwith the amounts provided in the judgment."—a completely false assumption as the Record indicates and as this Court will find if it grants the Petition.

(Page 34):

"nevertheless the attorney was present when the judgment was signed"—a disastrously erroneous statement.

Note 2.

Rules of Civil Procedure Nos. 55, 60b, 75a, 75h, and 77b.

Note 3.

No process has ever been issued in this action, no trial has been had, no witnesses examined, no depositions or affidavits offered or accepted and no inquiry made as to the facts; nevertheless $34,867.04, belonging to this Petitioner, has been paid out to his utter exclusion and in complete violation of the decision in *Ritchie* v. *Drier*, 165 Fed. 2d 238, certiorari denied in 334 U. S. 860.

Note 4.

On motion of the Great Lakes Steel Corporation, appellee, District Judge Tamm struck from the record on appeal four items designated by the appellant by order dated October 6, 1950, which was not permitted to appear in the record in the Court of Appeals and is not in the record considered by this Court.

Note 5.

The appellant has been a member of the bar of this Court for more than thirty years, has appeared before it and has, as any lawyer, for it a deep and sincere reverence. It is this more than self-interest which accounts for his persistence in this petition. The practice of the Court being what it is on petitions of this nature—submission without hearing, decision without explanation (*Darr* v.

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Buford, 339 U. S. 200), grounds for denial of his petition are to him utterly inscrutable. The only conjecture which he has been able to conjure up is that the record, as emasculated below, has misled this tribunal. In the opinion of the Court of Appeals (R. p. 32) there are italicized the words *"by the court"* in the sentence reading, in part, "that the remaining third should be used to buy up intervening claims against Aron in such amounts as should be designated by him or *by the court.* (This was not the language of the agreement which read "as designated by you (Aron) or by Court Order.") The necessary implication of this statement in the opinion of the Court of Appeals is that the appellant had agreed to any distribution of the fund in the Registry which might be made by the United States District Court for the District of Columbia. Were this the fact, the action of this Court as to the petition now here can be understood in denying the petition, because, despite the serious infractions of due process of law in the courts below, the result in the distribution of the fund was of the appellant's own making and the questions were therefore moot. *Nothing, however, could be further from the truth.* The court referred to was the Supreme Court of the State of New York, where the appellee Ritchie had had herself appointed in 1937 sequestrator of the appellant's assets and earnings, under precisely similar circumstances as those denounced by this Court in *Griffin* v. *Griffin,* 327 U. S. 220.

The reason for the words "or by Court Order" was obviously to avoid any charge of contempt in the New York Supreme Court, as is borne out by the statement of an alternative course in the concluding provisions of the agreement (R. p. 9a).

It will be noted that in the District Court this cause was entitled Katharine M. Drier *et al v.* John W. Snyder

et al (R. p. 1a) but was changed, without appellant's knowledge or consent, in the Court of Appeals to its present title here. This, too, may well have misled this Court on the point as to what was meant by the words "or by Court Order", in sloughing off the fact that a motion was made, pursuant to the agreement in the Supreme Court of New York and denied, as anticipated in the provision of an alternative course in the 1945 agreement.

Unless this Court has been misled on this point by the deficient and distorted record sent up by the courts below, it is utterly inconceivable that it should sanction the distribution by the District Court of funds held in trust in its own Registry, without process, testimony, evidence or consent.

Respectfully submitted,

HAROLD G. ARON, *pro se*,
8300 Talbot Street,
Kew Gardens, N. Y.

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Certificate of Merit.

I hereby certify that service of the foregoing Petition is made in good faith, that I believe it to be meritorious, that it is not made for purposes of delay and that it complies with the provisions of Rule 33, as amended.

HAROLD G. ARON,
Appellant, *pro se.*

Certificate of Service.

I hereby certify this service of the foregoing Petition for Rehearing was made by sending copies thereof by United States mail, postage prepaid to the Solicitor General of the United States, Washington, D. C.; Mrs. Betsy Everson Ritchie, 3348 Gunston Road, Alexandria, Va.; A. K. Shipe, Esq., National Press Building, Washington, D. C., attorney for the Great Lakes Steel Corporation and Soterios Nicholson, Esq., Burlington Hotel, Washington, D. C., attorney for Stern Brothers and Bonwit-Teller, Inc., this 30th day of October 1952.

HAROLD G. ARON,
Appellant, *pro se.*